

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NIPPON SHINYAKU CO. LTD.,

Plaintiff,

v.

SAREPTA THERAPEUTICS, INC.,

Defendant.

SAREPTA THERAPEUTICS, INC. and THE
UNIVERSITY OF WESTERN AUSTRALIA

Defendant/Counter Plaintiffs,

v.

NIPPON SHINYAKU CO., LTD.
and NS PHARMA, INC.

Plaintiff/Counter Defendants.

C.A. No. 21-1015 (GBW)

DEMAND FOR JURY TRIAL

**PLAINTIFF'S CONCISE STATEMENT OF FACTS IN SUPPORT OF ITS MOTION
FOR PARTIAL SUMMARY JUDGMENT NO. 4 -
NO ANTICIPATION**

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Nippon Shinyaku Co., Ltd. and Counterclaim
Defendant NS Pharma, Inc.*

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1. Sarepta Therapeutics, Inc. (“Sarepta”) and the University of Western Australia (“UWA”) have asserted that claim 3 of the ’092 Patent, claim 2 of the ’461 Patent, and claims 1-4 of the ’217 Patent are anticipated by U.S. Patent Publication No. 2010/0168212 A1 (“’212 Popplewell”).

2. Each of claim 3 of the ’092 Patent, claim 2 of the ’461 Patent, and claims 1-4 of the ’217 Patent requires that the 5’-end of the claimed PMO is attached to a triethylene glycol (“TEG”) group.

3. It is undisputed that ’212 Popplewell does not disclose a PMO with the claimed 5’-TEG limitation. Ex. 13 (Dowdy Dep.) at 123:25–124:3; Ex. 2 (Reply Expert Report of Steven F. Dowdy, Ph.D.) ¶ 50.